

# United States Court of Appeals For the First Circuit

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No. 04-1155

NARRAGANSETT INDIAN TRIBE,  
Plaintiff, Appellant,

v.

STATE OF RHODE ISLAND ET AL.,  
Defendants, Appellees.

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Before  
Boudin, Chief Judge,  
Torruella, Selya, Lynch, Lipez and Howard,  
Circuit Judges.

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## ORDER GRANTING REHEARING EN BANC

Entered: July 8, 2005

A majority of the judges of this court in active service have voted to rehear en banc the questions of whether, to what extent, and in what manner Rhode Island may enforce its civil and criminal laws with respect to the operation of the Smoke Shop by the Narragansett Indian Tribe. Consequently, Parts II(D)(3) and (4) of the opinion of the panel in this case, Narragansett Indian Tribe v. State of R.I., 407 F.3d 450, 463-66 (1st Cir. 2005), are withdrawn, as are any other portions of the panel opinion that involve the enforcement questions. The judgment of this court dated May 12, 2005, is vacated.

The parties are directed to submit supplemental briefs on the enforcement questions, including the effect (if any) of tribal sovereign immunity. These briefs shall not exceed thirty pages per side, shall be in the form required by this court's local rules, and shall be filed on or before August 31, 2005.

The court invites timely motions to file amicus briefs of up to 15 pages in length.

The en banc court will hear oral arguments on Tuesday, December 6, 2005, at 2:00 p.m.

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IS A TRUE AND CORRECT COPY OF  
THE ORIGINAL ON FILE IN MY OFFICE  
AND IN MY LEGAL CUSTODY.

FIRST CIRCUIT COURT OF APPEALS  
BOSTON, MA

By the Court:

**RICHARD CUSHING DONOVAN**

Richard C. Donovan, Clerk.

[Certified copies to Hon. William E. Smith and Mr. David DiMarzio, Clerk, United States District Court for Rhode Island. Copies to Mr. Killoy, Mr. Luckerman, Mr. Kelly, Ms. Richards, Mr. Hodgkin & Mr. Larisa.]